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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,401	04/15/2004	Tommy Kristensen Bysted	939-011770-US (PAR)	8165
2512	7590	04/09/2008		
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			EXAMINER JACKSON, BLANE J	
			ART UNIT	PAPER NUMBER
			2618	
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			04/09/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,401	<b>Applicant(s)</b> BYSTED ET AL.	
	<b>Examiner</b> Blane J. Jackson	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 29-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14 and 29-34 is/are allowed.
- 6) ☒ Claim(s) 15, 18 and 35 is/are rejected.
- 7) ☒ Claim(s) 16, 17, 19, 20 and 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 2 January 2008 have been fully considered but they are not persuasive. As regards claims 15, 18 and 35, prior art Hsu was determined to disclose an outer control loop that continually adjusts the signal quality target such that the received quality of service target, the BLER, FER, PER or the bit error rate (BER) as compared to the measured data transmission quality (BER) are achieved for the downlink transmission on the physical channel.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 18 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu et al. (US 2005/0143116) in view of Kim (US 7,027,828).

As to claims 15, 18 and 35, Hsu teaches a communication device and method of generating a received signal quality signal in a communication system comprising:

Receiving a signal from a physical channel, the signal comprising one or more transport channels (figure 1, paragraphs 0027-0036, W- CDMA data is transmitted to a terminal on a physical channel that carries one or more transport channels),

Extracting a *Pilot field* from the received signal and determining the bit error rate therefore (paragraphs 0039, 0042-0045 and 0138, the signal quality and data transmission quality, BLER, FER, BER etc. is measured for the downlink transmission based on the dedicated pilot in the Pilot field (326) to support the inner loop and outer control loops),

Generating a received signal quality signal in dependence on the associated bit error rate of the extracted transport channel *Pilot field* (paragraphs 0042 and 0138, for the outer control loop, the signal quality target is continually adjusted such that the BER or quality of service targets are achieved for the downlink transmission on the physical channel).

Hsu teaches a downlink DPCH that includes data fields, a transmit power control field, a pilot field and a transport format combination indicator field where the *pilot field* is extracted from the received signal to measure the signal quality (S/N, pilot strength, received signal strength) for downlink power control to meet the associated data transmission performance, the BER or other quality, paragraphs 0039-0042 and 0138, but does not teach generating a received signal quality signal in dependence on the extracted transport channel format combination indicator.

Kim teaches downlink power adjustment to the DPCCH and DPDCH to a mobile station in the conventional sense and different power controls are adapted for the transport format combination indicator (TFCI) field for the DSCH that is effective in the handover of 3GPP systems, column 8, line 8 to column 9, line 50. Kim teaches the mobile station measures the SIR using a pilot signal of the DPCCH to generate a TPC

message for the DCH and also measures the power of the TFCI2 to generate a TPC message to the DSCH, column 9, line 53 to column 10, line 64.

Since Kim teaches measurement of the pilot field and TFCI, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hsu to alternatively measure the TFCI field since the TFCI field is continuously transmitted and better support for soft handover in a 3GPP system.

### ***Allowable Subject Matter***

Claims 16, 17, 19, 20 and 36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-14, 29-34 are allowed. The following is a statement of reasons for the indication of allowable subject matter: as to independent claims 1, 18 and 29, the prior art made of record (Hsu et al. (US 2005/0143116, paragraphs 0129 and 0138) teaches a communication device comprising a receiver for receiving a signal from a physical channel with processing means including generating a received signal quality in dependence on the quality of each transport channel signal prior to channel decoding, said generating including generating a bit error rate over the at least two transport channel signals and utilizing the value to the higher target value of the at least two transport channels but does not teach generating an average bit error rate over the at least two transport channel signals.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J. Jackson whose telephone number is (571) 272-7890. The examiner can normally be reached on Monday through Thursday, 8:30 AM-7:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blane J Jackson/  
Primary Examiner, Art Unit 2618